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Attorneys for Defendant HARRAH'S ENTERTAINMENT, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JAMES M. KINDER,
Plaintiff,

vs.

HARRAH'S ENTERTAINMENT, INC. and
DOES 1 through 100, inclusive,
Defendants.

CASE NO. 07-CV-2132-DMS (AJB)
[Consolidated with 07 CV 2226 DMS (POR)]

Judge: Hon. Dana M. Sabraw
Mag. Judge: Hon. Anthony J. Battaglia

Action Date: October 2, 2007

DECLARATION OF RONALD R. GIUSSO
IN SUPPORT OF DEFENDANT HARRAH'S
ENTERTAINMENT, INC.'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
TO DECLARE PLAINTIFF A VEXATIOUS
LITIGANT AND FOR AN ORDER
REQUIRING PLAINTIFF TO POST A
BOND IN THE AMOUNT OF \$75,000

ACCOMPANYING DOCUMENTS:
NOTICE OF MOTION AND MOTION;
MEMORANDUM OF POINTS AND
AUTHORITIES; NOTICE OF LODGMENT
OF EXHIBITS; [PROPOSED] ORDER

Date: April 18, 2008
Time: 1:30 p.m.
Courtroom: 10

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1 I, Ronald R. Giusso, declare:

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3 1. I am an attorney duly admitted to practice before this Court. I am an attorney with
4 Shea Stokes Roberts & Wagner, ALC, attorneys of record for Defendant Harrah's Entertainment,
5 Inc. If called as a witness, I could and would competently testify to all facts within my personal
6 knowledge except where stated upon information and belief.
7

8 2. This declaration is submitted in support of Defendant Harrah's Entertainment, Inc.'s
9 Motion To Declare Plaintiff James M. Kinder a Vexatious Litigant And For An Order Requiring
10 Plaintiff to Post a Bond in the Amount of \$75,000. \$75,000 is a reasonable amount to require
11 KINDER to post as security for the continued prosecution of this action as Defendant Harrah's
12 Entertainment, Inc., and additional as yet-unerved *Specially Appearing* Defendants, expect to
13 incur at least that amount in costs related to investigation, research and defense of KINDER's
14 claims, forensic analysis of the alleged telephone calls and transcripts, and other necessary means
15 to defend against KINDER's claims.
16

17 3. On October 2, 2007, KINDER filed a complaint against Defendant Harrah's
18 Entertainment, Inc. in the Superior Court of the State of California for the County of San Diego.
19

20 4. The complaint alleged violations of the Telephone Consumer Protection Act of
21 1991, California *Civil Code* section 1770, California's Unfair Business Practices Act, and trespass
22 to chattels.
23

24 5. On November 21, 2007, Defendant filed a notice of removal of the action to the
25 United States Federal District Court for the Southern District of California based on this Court's
26 diversity jurisdiction pursuant to 28 *U.S.C.* section 1332(a).
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1 6. On November 30, 2007, Defendant filed a motion to dismiss the complaint
2 pursuant to Federal Rule of Civil Procedure 12(b)(2) and 12(b)(6).

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4 7. On December 28, 2007, KINDER filed a motion for leave to file an amended
5 complaint seeking to add five new defendants to the action. On January 22, 2008, this Court
6 granted KINDER's motion for leave to amend and denied Defendant's motion to dismiss.

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8 8. It is undisputed that KINDER failed to obtain a pre-filing order prior to filing the
9 instant action on October 2, 2007.

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11 9. Attached as Exhibit 1 to the Notice of Lodgment is a true and correct copy of the
12 Web page of the San Diego Superior Court docket showing Kinder's filings from 2000-2006.

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14 10. Attached as Exhibit 2 to the Notice of Lodgment is a true and correct copy of the
15 Web page of the San Diego Superior Court docket showing Kinder's filings in 2007.

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17 11. Attached as Exhibit 3 to the Notice of Lodgment is a true and correct copy of the
18 Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder*
19 *v. States Recovery Systems, Inc.*, Case No. GIC 818823.

20
21 12. Attached as Exhibit 4 to the Notice of Lodgment is a true and correct copy of the
22 Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder*
23 *v. Household Automotive Finance Corporation*, Case No. GIC 818812.

24
25 13. Attached as Exhibit 5 to the Notice of Lodgment is a true and correct copy of the
26 Complaint in the case of *James M. Kinder v. Corporate Collection Services, Inc.*, Case No. GIC
27 822762, with notification from the Court requiring a pre-filing order before any Kinder case can
28 be filed.

1 14. Attached as Exhibit 6 to the Notice of Lodgment is a true and correct copy of the
2 Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder*
3 *v. Rite Air Corporation*, Case No. GIC 818821.

4
5 15. Attached as Exhibit 7 to the Notice of Lodgment is a true and correct copy of the
6 Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder*
7 *v. Mitsubishi Motors Credit of America, Inc.*, Case No. GIC 818822.

8
9 16. Attached as Exhibit 8 to the Notice of Lodgment is a true and correct copy of the
10 Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder*
11 *v. NCO Financial Systems, Inc.*, Case No. GIC 818820.

12
13 17. Attached as Exhibit 9 to the Notice of Lodgment is a true and correct copy of the
14 Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder*
15 *v. 24 Hour Fitness USA, Inc.*, Case No. GIC 818819.

16
17 18. Attached as Exhibit 10 to the Notice of Lodgment is a true and correct copy of the
18 Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder*
19 *v. Bay Area Credit Service, Inc.*, Case No. GIC 818818.

20
21 19. Attached as Exhibit 11 to the Notice of Lodgment is a true and correct copy of the
22 Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder*
23 *v. Washington Mutual Bank, Washington Mutual Finance, and North American Mortgage*
24 *Company*, Case No. GIC 818816.

25
26 20. Attached as Exhibit 12 to the Notice of Lodgment is a true and correct copy of the
27 Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder*
28 *v. Western Collection Recovery, Inc.*, Case No. GIC 818817.

21. Attached as Exhibit 13 to the Notice of Lodgment is a true and correct copy of the Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder v. Collectech Systems, Inc.*, Case No. GIC 818815.

22. Attached as Exhibit 14 to the Notice of Lodgment is a true and correct copy of the Complaint and Order Denying Permission to File New Litigation in the case of *James M. Kinder v. Triad Financial Corporation*, Case No. GIC 818814.

23. Attached as Exhibit 15 to the Notice of Lodgment are true and correct copies of the cover pages of 27 cases filed by Kinder in the San Diego Superior Court in the month of December 2007, in which Kinder alleges violations of the Telephone Consumer Protection Act.

24. Attached as Exhibit 16 to the Notice of Lodgment are true and correct copies of Vexatious Litigant Lists for September 2007, October 2007, and January 2008, prepared and maintained by the Administrative Office of the Court of California.

25. Attached as Exhibit 17 to the Notice of Lodgment is a true and correct copy of the complaint originally filed in San Diego Superior Court, in the case of *James M. Kinder v. Nationwide Recovery Systems, Ltd.*, Case No. 37-2007-00071358-CU-MC-CTL, currently pending before the Southern District.

26. Attached as Exhibit 18 to the Notice of Lodgment is a true and correct copy of the complaint originally filed in San Diego Superior Court, in the case of *James M. Kinder v. Enhanced Recovery Corporation.*, Case No. 37-2007-00074113-CU-MC-CTL, currently pending before the Southern District.

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1 27. Attached as Exhibit 19 to the Notice of Lodgment is a true and correct copy of the
2 complaint originally filed in San Diego Superior Court, in the case of *James M. Kinder v.*
3 *Bankfirst*, Case No. 07-cv-0877-DMS-POR, currently pending before the Southern District.

4
5 28. Attached as Exhibit 20 to the Notice of Lodgment is a true and correct copy of the
6 complaint originally filed in San Diego Superior Court, in the case of *James M. Kinder v. Spring*
7 *PCS Assets, L.L.C. and Spring PCS License, L.L.C.*, Case No. 37-2007-00074754-CU-MC-CTL,
8 currently pending before the Southern District.

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10 29. Attached as Exhibit 21 to the Notice of Lodgment is a true and correct copy of the
11 complaint originally filed in San Diego Superior Court, in the case of *James M. Kinder v. Asset*
12 *Acceptance, LLC*, currently pending before the Southern District.

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14 30. Attached as Exhibit 22 to the Notice of Lodgment is a true and correct copy of the
15 complaint originally filed in San Diego Superior Court, in the case of *James M. Kinder v. Astra*
16 *Business Services, Inc.* Case No. 37-2007-00073375-CU-MC-CTL currently pending before the
17 Southern District.

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19 31. Attached as Exhibit 23 to the Notice of Lodgment is a true and correct copy of the
20 complaint originally filed in San Diego Superior Court, in the case of *James M. Kinder v.*
21 *Discover Card Services, Inc.*, Case No. 37-2007-00076045-CU-MC-CTL, currently pending
22 before the Southern District.

23
24 32. Attached as Exhibit 24 to the Notice of Lodgment is a true and correct copy of the
25 complaint originally filed in San Diego Superior Court, in the case of *James M. Kinder v. Cavalry*
26 *Investments, LLC dba Cavalry Portfolio Services*, currently pending before the Southern District.

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33. Attached as Exhibit 25 to the Notice of Lodgment is a true and correct copy of the original complaint filed against Harrah's Entertainment, Inc. by James M. Kinder, Case No. 37-2007-00076114-CU-MC-CTL.

34. Attached as Exhibit 26 to the Notice of Lodgment is a true and correct copy of the United States District Court, Southern District of California's Order denying Defendant Harrah's Entertainment, Inc.'s Motion to Dismiss, dated January 22, 2008.

35. Attached as Exhibit 27 to the Notice of Lodgment is a true and correct copy of the State Bar of California's Web page showing James Michael Kinder is resigned and may not practice law in California.

36. Attached as Exhibit 28 is a true and correct copy of an article in SanDiegoReader.com entitled "City Lights" dated January 17, 2008.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed by me on March 6, 2008 at San Diego, California.

s/Ronald R. Giusso
Ronald R. Giusso